

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

EDWARD J. MERRALL,

Plaintiff,

v.

GALE NORTON et al.,

Defendants.

Civil No. 04-3008-CO

FINDINGS AND RECOMMENDATION

COONEY, Magistrate Judge.

Plaintiff was order to show cause in writing by October 7, 2005 as to why this case should not be dismissed for lack of prosecution. Plaintiff was advised that failure to respond would result in dismissal of the case. Plaintiff has not responded. Therefore, it is recommended that this case be dismissed for failure to prosecute and failure to comply with the court's orders.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable

order. *The parties shall have ten days from the date of service of a copy of this recommendation within which to file specific written objections with the Court. Thereafter, the parties have ten days within which to file a response to the objections.* Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 11th day of October, 2005.

_____/s/_____

UNITED STATES MAGISTRATE JUDGE